

REMARKS

This is intended as a full and complete response to the Final Office Action dated October 21, 2008, having a shortened statutory period for response set to expire on January 21, 2009. Applicants submit this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-3, 5-7 and 9 are pending in the application. Claims 1-3, 5-7 and 9 remain pending following entry of this response.

Claim Rejections - 35 U.S.C. § 103

Claims 5-7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Goiffon et al.* (U.S. Patent No. 6,453,312, hereinafter, "*Goiffon* '312") in view of *Singh* (U.S. Publication No. 2003/0204759).

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Goiffon et al.* (U.S. Patent No. 6,226,792, hereinafter, "*Goiffon* '792") in view of *Goiffon* '312 and further in view of *Singh*.

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that the Examiner has not properly characterized the teachings of the references and/or the claims at issue. Accordingly, a prima facie case of obviousness has not been established.

For example, the Examiner continues to suggest that the references disclose "obtaining one or more parameters . . . indicative of a date or time of day," "obtaining, based on the one or more parameters and the base search term, one or more expanded search terms," and "modifying the query to contain one or more conditions based on the one or more expanded search terms," as recited in claim 1. Applicants disagree.

As demonstrated in Applicants' prior response (dated July 23, 2008), in rejecting claim 1, the Examiner concedes *Goiffon* '312 and *Goiffon* '792 do not teach the "one or more parameters comprise at least one parameter indicative of a date or time of day," as recited in claim 1. Final Office Action, page 5. Instead, the Examiner refers to yet a third case, citing *Singh* as teaching system utilization depending on the time of day or the day of the week:

Singh teaches at [0051] that system utilization "depend on the time of the day, the day of the week." Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine *Singh* with *Goiffon*'s teaching so that the system utilization can be determined correctly based on time of the day to efficiently use of[sic] the system resources without overloading the resources.

. . . .

In summary, *Goiffon*[] teaches the number of expanded search terms depends upon system utilization or available resources, and *Singh* suggest[s] time of the date or date of the week [affects] system utilization or available resource[s]. Thus, combining *Goiffon* and *Singh* would result in obtaining one or more search terms based on time of the date or date of the week as claimed.

Final Office Action, pages 5 and 7. The cited portion of *Singh* is set forth below:

.... For example, during daytime the system loads may fluctuate more often because different working customers request different services. Consequently, the sampling period during this time is shorter than that at nighttime or weekends where system utilization is more stable. Similarly, the number of samples is higher during weekdays than during nighttime and weekends.

Singh, ¶ 51. While the cited portion of *Singh* teaches that the fluctuation of a system's utilization may depend on the time of day or the day of the week, there is absolutely no suggestion to modify a query in any manner based on date or time of day. In contrast, claim 1 recites modifying a query to include expanded search terms that are obtained based on parameters "indicative of a date or time of day." Further, claim 1 also recites

"obtaining one or more parameters . . . indicative of a date or time of day." Accordingly, Applicants submit that the Examiner failed to properly ascertain the differences between the claimed invention and the prior art. Consequently, the references, even when combined, do not teach, show, or suggest "obtaining one or more parameters . . . indicative of a date or time of day," "obtaining, based on the one or more parameters and the base search term, one or more expanded search terms," or "modifying the query to contain one or more conditions based on the one or more expanded search terms." Therefore, claim 1 and its dependents are allowable, and withdrawal of this rejection is respectfully requested.

With respect to claims 5-7 and 9, Applicants respectfully traverse these rejections. Claim 5 and its dependents contain similar limitations as described above with reference to claim 1 that are not taught in the cited references.

Accordingly, Applicants submit that claim 5 and its dependents are also allowable, and withdrawal of the rejection is respectfully requested.

Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact Gero McClellan, attorney of record, at (336) 698-4286, to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

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